

**Board for Judicial Administration
March 21, 2008
AOC SeaTac Office
SeaTac, Washington**

Members Present: Chief Justice Gerry Alexander, Chair; Judge Vickie Churchill, Member Chair; Judge Marlin Appelwick; Judge Rebecca Baker; Judge Leonard Costello; Judge Ronald Cox; Mr. Stan Bastian (by phone); Judge Susan Dubuisson; Judge Deborah Fleck; Ms. Paula Littlewood; Justice Barbara Madsen; Judge Richard McDermott; Judge Larry McKeeman; Judge Robert McSeveney; Judge Marilyn Paja; Judge Linda Portnoy; and Judge Stephen Shelton

Guests Present: Mr. Jim Bamberger, Mr. M. Wayne Blair, Ms. Roni Booth, Ms. Reiko Callner, Justice Mary Fairhurst, Representative Pat Lantz, Ms. Kathy Martin, Ms. Joanne Moore, and Ms. Stacy Rundle

Staff Present: Ms. Ashley DeMoss, Ms. Wendy Ferrell, Ms. Beth Flynn, Judge Doug Haake, Mr. Jeff Hall, Mr. Dirk Marler, Ms. Mellani McAleenan, Ms. Regina McDougall, Mr. Ramsey Radwan, and Mr. Chris Ruhl

Chief Justice Alexander called the meeting to order.

Judicial Retirement Account Investment Report

The Judicial Retirement Account (JRA) investment plan requires a yearly report from the Department of Retirement Systems (DRS) to the BJA. Mr. Radwan introduced Ms. Rundle, from DRS, who presented the annual plan update.

Ms. Rundle reported that the JRA plan was originally established to supplement the PERS plan. Under the direction of the Board for Judicial Administration (BJA), the Administrative Office of the Courts (AOC) is the plan administrator, DRS provides record-keeping services for the JRA, and the State Investment Board chooses plans to invest JRA funds in.

The “JRA Status Summary – Calendar Year 2006 & 2007 Comparison” was included in the meeting materials.

It was moved by Judge Baker and seconded by Judge Shelton to accept the report on the status of the JRA. The motion carried.

Public Trust and Confidence Committee Report

Justice Fairhurst reported on the Public Trust and Confidence Committee’s projects over the last year.

Judicial Independence Visual Aids: Justice Fairhurst stated that the Judicial Independence Visual Aids project is chaired by municipal court Judge Kevin Ringus and municipal court administrator Ms. Linda Baker. Representatives from the Court Management Council (CMC) and the County Clerks were also involved in the creation of these documents. The Committee received approval on the text from the BJA last year and hired a graphic designer to create three simple, easy-to-understand visual aids of the independent branches of government to help citizens understand the role of the courts in Washington. The Committee envisions them being adapted to posters and placed in juror rooms or used by people making presentations to local groups. The plan is to give a copy to every judge throughout the state with a link to the electronic copy along with a cover letter explaining the project and suggested uses for the visual aids. Justice Fairhurst mentioned that it is always nice for judges to have something they can hand to visitors which can be discussed and referenced after their visit. The Committee also discussed making the visual aids available through the Department of Printing so interested parties could order copies directly from that agency.

Judge Churchill pointed out where lines need to be added under the Regular County Government section of the Local Government Organization Charts document (from "Citizens" to "Superior Court" and from "Superior Court" to "Presiding Judge"). Justice Fairhurst said those corrections would be made.

Children's Activity Book: This project is chaired by King County Council Member Kathy Lambert and superior court administrator Ms. Delilah George as vice-chair. The project adapted the California Judicial Council's What's Happening in Court (an activity book for children who are going to court) for Washington State. The Committee spent a year revising language, Justice Bobbe Bridge has reviewed the draft, and the Committee is making final changes and edits.

The goal of the project is to have the activity book as an information source for children coming into the courts. It would be available online and could be printed as needed.

Justice Fairhurst requests approval of the concept and will bring the entire publication back to the BJA for approval once it is finalized.

Jury Summons: The subcommittee, chaired by Kitsap County Clerk David Peterson, developed a model jury summons using Kitsap County's summons as a starting point. If approved, the Committee will distribute the model jury summons to courts for their use. It is only a model and not mandatory. The Committee also developed additional questions to be asked of jurors at the time of trial because the summons is a public record and they only wanted qualification questions included on the summons.

Justice Madsen wondered about use of the word "confidential" on the model summons. Is it misleading since the summons is a public record?

Judge Paja mentioned that she noticed there is no provision in the dress code section of the model summons for an exception if needed. It seems to her there ought to be some method to ask for an exception and that should be included on the summons. Justice Fairhurst said she will take the suggestion back to the Committee.

Judge Churchill asked if there was some way to include a parking permit on the summons, without including the juror's name, because jurors would be less likely to leave it at home, which is often the case when the permit is separate from the summons.

Jury Service Exit Survey: This project is chaired by Mr. Charley Benedict. The work of the subcommittee consists of reviewing National Center for State Courts model exit questionnaires along with exit surveys currently being used throughout the state to develop the model exit survey.

Judge Dubuisson moved and Judge Appelwick seconded that the Public Trust and Confidence Committee Report be approved as presented.

Justice Fairhurst asked that the motion also include "with the understanding that the Committee will follow-up with suggestions to the Model Juror Summons and the Children's Activity Book and will bring both back for BJA approval."

Both Judge Dubuisson and Judge Appelwick accepted Justice Fairhurst's suggestion.

The motion carried.

Projects for 2008: The Committee will be taking on the following projects in the coming year: 1) Create a "Juror's Rights and Responsibilities" document. 2) Establish an Ad-Hoc Web Site Advisory Group to assist AOC in their Web site redesign. 3) Establish and promote best practices for judges in Washington regarding their pro se interactions to improve public trust and confidence. 4) Create a library of Public Trust and Confidence Committee projects.

Principal Policy Objectives of the Washington State Judicial Branch

Mr. Hall shared that one of the things Mr. Butch Stussy began working on as the State Court Administrator was to bring together the state judicial branch agency heads so the judicial branch could operate more cohesively at the state level.

The intent in drafting the Principal Policy Objectives of the Washington State Judicial Branch was to use them in the judicial branch budget process.

Judge McKeeman explained that he made a proposed revision to objective three to mirror the intent of the second paragraph of the document which states, "The judicial branch in Washington State is not structurally unified at the statewide level . . ." The proposed wording would allow for practices such as Justice Fairhurst's Public Trust and Confidence Committee jury summons and additional juror question models which could be used as best practices instead of mandates.

Judge McKeeman also added objective six regarding public access to information and deleted that information from objective three.

Judge Appelwick read the objectives document and thought it was a fine statement but questioned the necessity of it. Generally, when groups adopt statements, they are designed to ensure uniform business practices or are used by an external body as a measuring system. Judge Appelwick asked if it is necessary to formally adopt an objective statement.

Mr. Hall explained that the intent is to have a set of policy objectives the judicial branch can tie to their budget requests. It is really just to give the budget requests an overall context of where the judicial branch is going and why they are asking for those funds.

Chief Justice Alexander shared that the impetus for drafting the objectives partly arose from the meeting that he and Mr. Stussy had with the Governor last year which followed the Governor's comments regarding the judicial branch budget request. The upshot of the meeting was that the Governor wanted to be supportive of the judicial branch budget but she felt the judicial branch hadn't systemized the process for developing budgets. Chief Justice Alexander and Mr. Stussy felt it was appropriate to develop a policy statement to guide development and review of the judicial branch budgets by the Supreme Court's Budget Committee.

Judge Fleck moved and Judge Costello seconded to word objective three as follows: "Commitment to Effective Court Management. Washington courts will employ and maintain systems and practices that enhance effective court management." The motion carried.

During the discussion of the motion, Judge Appelwick asked if the proposed language signals an intent to be subject to the public records act? Mr. Hall responded that it did not and Mr. Bamberger pointed out that the drafters intentionally omitted reference to the public records act, as it is not conceded that the act itself applies to judicial branch agencies and we did not wish to infer that it does.

Judge Shelton asked if the wording is consistent with the BJA Long-range planning effort and Mr. Hall responded that he believes the objectives help guide those plans.

It was moved by Judge Portnoy and seconded by Judge Baker to remove the slash in the second paragraph "...Ours is a local/state partnership..." and replace it with the word "and." The motion carried.

It was moved by Judge McSeveney and seconded by Judge Baker to endorse the objectives as submitted by Judge McKeeman with the revisions passed earlier by the BJA. The motion carried.

Legislative Wrap-Up

Legislation: Ms. McAleenan reported that the BJA request legislation (HB 2762, adding a new Cowlitz County Judge; and SSB 6322, definition of a weapon) passed this session.

SSB 6933 which changes the court rule for admissibility in sex cases has been signed by the Governor and the reauthorization of OPD (ESSB 6442) and the interpreter bill (2E2SHB 2176) have been delivered to the Governor. The Governor has until April 5 to sign bills or veto them (she can veto by section). Ms. McAleenan does not anticipate any problems with the Governor signing these particular bills.

Budget: Mr. Radwan stated that the budget, as passed, was okay. The family and juvenile court plan received some funding and an access coordinator was funded. The AOC had a number of maintenance items which were funded and the Court of Appeals was only funded one of two staff attorneys which were requested. The Law Library received 100% of their funding request. Overall, it was a fairly good legislative session for everybody.

February 15, 2008 Minutes

Ms. Callner suggested the following change in the wording of the February minutes under the Washington State Bar Report section: "The letter was sent to the director of the Commission on Judicial Conduct for input prior to distribution."

It was moved by Judge Appelwick and seconded by Judge Fleck to approve the February 15, 2008 BJA meeting minutes with the changes suggested by Ms. Callner. The motion carried.

Interpreter Funding

Mr. Hall shared that AOC requested that the Legislature move \$190,000 in interpreter funding from this fiscal year to next fiscal year. The Legislature did not do that. The bad news is AOC is now over-committed in terms of next year (FY09) and staff are working to develop a revised distribution plan to address that. The good news is that AOC now has an additional \$190,000 to spend before the end of this fiscal year.

Mr. Ruhl and Ms. Katrin Johnson have developed a plan to distribute the additional \$190,000 in FY08 to courts that applied for FY08 interpreter funding but were not selected to receive it. Funds would be available to those courts to reimburse for interpreter services incurred starting on January 1, 2008. In return, they would ask the courts to provide the same interpreter data to AOC that other funding recipient courts are being required to provide.

Judge Appelwick asked if making reimbursement available for services starting on January 1 was sent through the auditor or OFM, and Mr. Hall replied that AOC internal sources state it is okay.

AOC staff will report during a future meeting on how they will deal with the FY09 shortfall.

Washington State Family and Juvenile Court Improvement Plan

Judge Fleck reported that HB 2822 was sparked by AOC staff, Ms. McDougall, and a workgroup headed by Judge Michael Trickey.

Work has begun on an implementation strategy and the bill will be implemented in phases. The first phase consists of courts submitting a Phase I Local Improvement Plan which will be due by August 1 (is now changed to July 15, 2007). This phase requires courts that are selected to identify a chief judge of family and juvenile court, meet the training requirement of 30 hours for each judicial officer assigned to family and juvenile court, and hire a case coordinator to evaluate and develop the Local Improvement Plan.

Phase II consists of the courts identifying the specific staffing, facility, case management or operational improvements that the Local Improvement Plan intends to accomplish, along with specifying which UFC principals are targeted. The Phase II due date is December 1.

Judge Trickey, Judge Fleck and Ms. McDougall will be presenting information about the plan during the SCJA Spring Conference.

The next step includes developing criteria to select courts for Phase I of the implementation and an oversight committee will be established to assist in the selection process.

Judge Churchill thanked the key team members: Ms. McDougall, Judge Trickey, Judge Fleck, Judge McKeeman, Judge Costello and Judge Godfrey. Each of these players was integral to the process.

Trial Court Operations Funding Committee

Mr. Hall explained that there are two items for action regarding the Trial Court Operations Funding Committee. The first is choosing the chair of the Committee and approving the committee membership. A list of committee members was included in the meeting materials. After conferring with Judge Churchill, and speaking with Judge Harold Clarke, Judge Clarke has agreed to serve as chair.

It was moved by Judge Shelton and seconded by Judge Dubuisson that the BJA approve the membership of the Trial Court Operations Funding Committee as submitted and appoint Judge Harold Clarke as the Chair of the Trial Court Operations Funding Committee. The motion carried.

The second item of business is to establish the priorities of the Trial Court Operations Funding Committee.

It was moved by Judge Fleck and seconded by Justice Madsen that the BJA Trial Court Funding Operations Committee develop the following priorities: 1) Increase juror compensation. 2) Increase interpreter funding. 3) Move towards 50% state funding of district court judges and elected municipal court judges. The developed priorities will be presented to the BJA during their April meeting and any other suggested priorities can be submitted at that time. The motion carried.

Access to Justice Board

Mr. Blair reported that the Access to Justice Board (ATJ) is pleased that 2SHB 2903 passed. The bill adds a disability access coordinator at AOC to assist courts. The ATJ Board's Impediments to Access to Justice Committee has been advocating for an AOC disability access coordinator since 2006.

In May 2007, Mr. Blair gave an update to the BJA regarding the ATJ Board state plan. One element of the plan is pro bono services. In each county, there is a volunteer legal services program and volunteers agree to provide pro bono aid. In February, the ATJ brought together leaders and coordinators of the county programs to figure out how to get each coordinator to work together. They came up with a pro bono back-up support center and will be moving ahead with that idea.

WSBA

Mr. Bastian reported that the Board of Governors (BOG) had their most recent meeting in Tacoma. During the meeting, the Governors approved conducting the bar exam in both Bellevue and Spokane starting in the summer of 2010.

Ms. Carla Lee was elected as the new governor-at-large representing the Washington Young Lawyer's Association. She is serving the remainder of Mr. Jason Vail's term because he moved to Chicago.

The WSBA will elect board members between now and June. In the past, they have had difficulty getting people to run for election. This year, Mr. Loren Etengoff from Vancouver is uncontested and the other four districts up for election all have contested races. There will be a very spirited election process this year.

Ms. Littlewood shared that the day before the BOG meetings, they meet with the local judges. One theme they hear is about the county commission and how they deal with funding coming in from the Legislature and the separation of powers issue.

The Carnegie Foundation issued a report regarding legal education and what should be taught in law schools to prepare future attorneys. The report indicated that law schools are doing well teaching theory but they need to be emphasizing skills training earlier. The report is located on the Carnegie Foundation Web site.

Reports from Courts

Supreme Court: Chief Justice Alexander announced that Mr. Hall is Interim State Court Administrator until the Court makes a decision on a permanent administrator. Justice Madsen reported that the Supreme Court Personnel Committee is working on hiring a new State Court Administrator. The Court and the Personnel Committee agreed that professional assistance with the Administrator recruitment was necessary so the Court hired Mr. Ted Ford Webb who has a very credible reputation in Washington. They informed Mr. Ford Webb that they wanted to fill the position quickly and in that effort, Mr. Ford Webb has hit the ground running. He has met with members of the Court as well as with judicial branch and AOC staff stakeholders. As of yesterday, Mr. Ford Webb said he has hopes that interviews will take place the week of April 14. The Committee plans to invite stakeholder participation but they aren't quite there yet in the process. Several great candidates have expressed interest so there is enthusiasm out there and that is good.

There was a request from the Court of Appeals to look at a Whistleblower policy for the judicial branch and a workgroup has been created to address that issue. Justice Susan Owens is the lead Supreme Court representative for the group.

The Supreme Court will hear oral arguments on May 6 at Highline Community College. The justices will also meet with students to further civic education.

The Gender and Justice Commission is in the process of making STOP grant awards. Justice Madsen will make a more complete report at a future BJA meeting.

Court of Appeals: Judge Cox reported that Judge Schultheis is recovering from heart surgery. Judge Cox's term as Presiding Chief Judge ends in early April and there will be a new COA representative on the BJA.

Superior Court Judges' Association: Judge Churchill thanked everyone for their hard work on the Washington State Juvenile and Family Court Improvement Plan. The SCJA is very fortunate to have so many members who are active in the Legislature.

District and Municipal Court Judges' Association: Judge Shelton stated he is pleased to have Ms. DeMoss as staff to the DMCJA. The DMCJA has had two resignations on their Board. Judge Haake was appointed to fill one of the positions on the DMCJA Board which will expire in June. He will not run for the position but will fill-in until a new Board member is elected. Judge Veronica Alicea-Galvan was appointed to fill the other Board position.

Recognition of Representative Pat Lantz

Chief Justice Alexander introduced Representative Lantz and stated he did not want her to leave the Legislature without expressing to her how much the BJA appreciates her service as the Chair of the House Judiciary Committee and as a state representative.

Chief Justice Alexander also acknowledged that Representative Lantz is the longest serving Chair of the House Judiciary Committee and she has been a great supporter of the justice system and judiciary and the Justice in Jeopardy Initiative.

In an expression of the BJA's thanks and appreciation, Chief Justice Alexander presented Representative Lantz with a Temple of Justice print signed by the BJA members.

Representative Lantz stated that she and the BJA have done amazing things together in the last few years and no one can do anything alone. Having the opportunity to work together on the fundamental foundation of civil society has been the all-time privilege of her life.

Judge Churchill thanked Representative Lantz for her effort on the judicial retirement bill. Judge Fleck expressed the appreciation of judges all across the state for Representative Lantz's assistance in improving the retirement benefit of judges around the state which assists in the recruitment and retention of highly capable judges.

There being no further business, the meeting was adjourned.